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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FILE

In the Matter of Policies and Rules Pertaining to the Equal Access Obligations of Cellular Carriers	)	RM-8012

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

INITIAL COMMENTS
OF
VANGUARD CELLULAR SYSTEMS, INC.

In accordance with the Commission's Public Notice, Report No. DA 92-745, dated June 10, 1992, Vanguard Cellular Systems, Inc. ("Vanguard" or "Company") submits its Initial Comments in connection with the captioned Petition For Rulemaking ("Petition") filed by MCI Telecommunications Corporation ("MCI").1/

I. INTRODUCTION

1. As a provider of non-wireline cellular telephone services Vanguard has a direct and substantial interest in the issues raised by MCI's Petition. Headquartered in Greensboro, North Carolina, Vanguard is a publicly-traded company which operates non-wireline cellular systems in 18 Metropolitan Statistical Areas ("MSA") and 3 Rural Service Areas ("RSA") in the Eastern half of the United States. These systems currently serve more than 80,000 subscribers, making Vanguard the 17th largest cellular operator in the United States. Vanguard also owns minority interests in non-wireline cellular systems throughout the nation which serve more than 115,000 subscribers. Vanguard's major service area is in Eastern Pennsylvania, centering on the MSAs of Harrisburg,

1/ These Initial Comments are timely filed pursuant to the Commission's revised schedule in this proceeding. Order, DA-92-1016, released July 28, 1992 (Com. Car. Bur.).

Allentown and Northeast Pennsylvania. However, the Company also operates non-wireline cellular systems in the States of Florida, West Virginia, New York, Maine, New Hampshire, South Carolina and, as a part of a joint venture, North Carolina.

2. Vanguard believes that adopting the MCI proposal is unnecessary and, especially at this point in the development of the cellular industry, would not be in the public interest. The competitive status of the mobile service marketplace does not justify imposing this requirement for non-wireline cellular providers. To require that Vanguard offer each such subscriber the opportunity to presubscribe to a particular interexchange carrier ("IXC") would initially add thousands of dollars to the Company's expenses, costs which could have to be passed on to Vanguard subscribers in some degree. Even if these costs ultimately are reimbursed, implementing the MCI proposal would at least temporarily divert capital from Vanguard's efforts to build out its cellular systems and provide ubiquitous service throughout these service areas. This in turn would contribute to delaying the evolution of a seamless nationwide non-wireline cellular system.

II. A SUBSCRIBER PRESUBSCRIPTION PROGRAM IS UNNECESSARY

3. MCI has not proffered any evidence that non-wireline cellular customers are paying a "premium" for long-distance telephone calls because they do not have the individual ability to designate their own IXCs. Indeed, by promising to deliver an enhanced calling volume, Vanguard has been able to obtain bulk rates from IXCs for carrying such traffic. These volume-based charges help Vanguard control the overall costs of operating its cellular systems. If each individual Vanguard customer were allowed

to select his or her own designated IXC, Vanguard's would lose the benefit of the aggregated volume arrangements with certain IXCs, thereby affecting its operating efficiencies. This could mean higher costs to Vanguard's customers for cellular services.

4. The historical and other reasons which mandated equal access requirements for the former Bell System local exchange carriers ("LEC") are not applicable to non-wireline cellular service. Unlike the local exchange telephone business, cellular is competitive. There are two cellular licensees per market, along with cellular resellers and other types of increasingly sophisticated mobile services. Even more are on the horizon. If a non-wireline customer were dissatisfied with the rates charged for long-distance calls on Vanguard's system, the subscriber could switch cellular carriers or seek other forms of mobile service. One cannot do the same with local exchange telephone service, which remains a monopoly bottleneck.

5. Nor does the extension of these requirements to the Bell Operating Company cellular affiliates mandate MCI's proposal. That extension was to a large extent the automatic outgrowth of (a) the Modification of Final Judgement ("MFJ") governing the divestiture of AT&T and (b) Judge Greene's efforts to ensure that essential restrictions in the MFJ could not be circumvented through use of mobile facilities.

6. In other instances where the Commission recently has mandated equal access, such as payphones and operator services, it has done so based on a perceived pattern of abuses and overcharging

that is not present here. Moreover, Congressional and state legislation responding to those abuses helped propel the Commission's action. Significantly, the FCC has recently suspended the requirement for equal access (i.e., access through use of a 10XXX code) from pay telephones and other call aggregator equipment because of the potential for fraud. See, Policies Concerning Operator Access and Pay Telephone Compensation, 7 FCC Rcd 4355 (1992). The FCC should be aware that fraud is a serious concern to the cellular industry. There have been well-publicized instances of cellular fraud involving international calls on "cloned" cellular telephones. The Cellular Telephone Industry Association ("CTIA") has established a special fraud subcommittee. Therefore, the FCC must consider the implications for fraud of any decision to require cellular equal access for non-wireline carriers.

III. EQUAL ACCESS PRESUBSCRIPTION WOULD BE TECHNICALLY COMPLEX AND SIGNIFICANTLY EXPENSIVE

7. For Vanguard and similarly-situated cellular carriers to implement and oversee the presubscription system advocated by MCI would be technically complex and involve significant up-front expenses. See, Declaration of Karen Garber attached as Exhibit 1 hereto.

8. First, in each MSA and RSA, Vanguard would be required to add interconnections with the array of IXCs serving the

particular market area.[2/] This would require acquiring additional trunking facilities from each of Vanguard's cellular switches to Class 4 Tandem offices (where the IXC connections reside) serving the MSA or RSA. Vanguard currently estimates that for each six (6) IXCs it would require a minimum of two (2) additional trunks. The Company also estimates that it would need to add channel service units ("CSU") or channel banks in each MSA or RSA, along with computer cards to interface the additional trunks to the relevant cellular switch. Finally, the hardware and software of each of Vanguard's eight (8) cellular switches would have to be upgraded. Those Vanguard switches, which are shared by several of the Company's cellular systems to enhance economies, probably would have to be upgraded to a "super node".

9. In addition to the added technical complexity of installing, operating and maintaining these new features and facilities, the costs would be very significant. Additional trunking could cost Vanguard up to $1,300 per month per IXC connection. It would cost Vanguard at least $10,000 to software upgrade each of its cellular switches. Each switch upgrade to "super node", where necessary, would cost Vanguard $800,000. The computer cards to effect the trunking/cellular switch interface would cost $7,000 each. CSUs cost $3,000 each. Therefore, at this time, Vanguard's estimated equipment and related installation costs

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2/ By the Commission's own reports, as of March 1992, there were 482 long distance carriers purchasing switched access to offer long-distance telephone service in various parts of the United States. FCC News Release, Mimeo 23592, June 23, 1992 (Ind. Anal. Div.).

alone are estimated at a minimum of $30,000 per market (i.e., some $630,000 overall), without taking into account cellular switch change outs to "super node".

10. But these costs do not include the additional personnel (the Company estimates one-two additional individuals per market) necessary to oversee the implementation (i.e., subscriber balloting) and ongoing administration of an IXC presubscription program for its cellular customers. The Commission is fully aware of the range of ongoing problems and burdens which can arise with respect to subscriber changes in IXCs. See, Policies and Rules Concerning Changing Long Distance Carriers, 7 FCC Rcd 1038 (1992).

11. While Vanguard may be reimbursed over time for a major part of these expenses, at least a portion of Vanguard's costs of developing, implementing and administering an equal access presubscription system could have to be passed on to the Company's subscribers in the short term. Unlike the landline telephone system, the nationwide cellular subscriber base is still relatively modest. Unlike the landline telephone system, the costs of implementing and administering such a program would have to be spread out over this smaller subscriber base. Therefore, the costs could have a much more substantial impact on the individual Vanguard customer.

IV. REQUIRING EQUAL ACCESS AS PROPOSED WILL INEVITABLY DELAY NATIONWIDE CELLULAR SERVICE

12. Like many other similarly-situated cellular carriers, Vanguard is in the process of continuing the build out of its cellular systems. To date, the Company has invested some

$350,000,000 in this process, including the development of its wide-area cellular system in Eastern Pennsylvania. Vanguard also has applied for and received experimental licenses from the FCC to test microcellular technologies that would improve the quality of its existing services. The resources available to Vanguard to achieve its build out and experimental plans are not infinite. They are carefully and tightly budgeted. Unlike the regulated LECs, Vanguard does not have a rate base on which it is prescribed an authorized return.

13. Allocation of limited funds now to provide the type of equal access capability proposed by MCI will divert a significant part of these resources from the system expansion process. As a result, the Company's proximate goal of making non-wireline cellular service ubiquitous within its MSAs and RSAs would be delayed. Such efforts could not help but be slowed as a result of this shifting of substantial financial resources even if only while awaiting reimbursement. Moreover, this effect on Vanguard undoubtedly also would be reflected in the plans and efforts of other similarly-situated cellular carriers, especially smaller cellular carriers and, therefore, on the evolution of a nationwide non-wireline cellular system. Such an impact would be directly contrary to the ultimate goal announced by the Commission when it launched the cellular licensing process over ten years ago. Cellular Communications Systems, 86 F.C.C. 2d 469, 473 (FCC intends to maintain its "commitment to the goal of implementing a nationwide compatible cellular communications service.") The

Commission should not forsake that aim based on unsubstantiated claims that cellular presubscription is necessary to help further promote competition for long-distance telephone service.

V. CONCLUSION

14. The Commission must assess all these factors in considering whether the public benefits of "automatic" access to the non-wireline cellular subscriber's IXC of choice outweigh the public detriments of mandating such a requirement at this stage. Vanguard is convinced that the first and foremost goal of cellular carriers, and FCC regulatory policy, should be to flesh out cellular service within the Company's MSAs and RSAs and help stitch together a nationwide non-wireline cellular network. Adopting the MCI proposal now would hamper and delay that effort and, therefore, is not in the public interest. Therefore, the Commission should decline to initiate a rulemaking proceeding to require presubscription as proposed by MCI.

Respectfully submitted,

VANGUARD CELLULAR SYSTEMS, INC.

By: Paul C Besozzi

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Its Counsel

Dated: September 1, 1992

EXHIBIT 1

DECLARATION

I, Karen Garber, of 2002 Pisgah Church Road, Suite 300, Greensboro, North Carolina 27455-3314, do hereby state as follows:

1. I received my B.S. in Electrical Engineering from the University of Tennessee in 1986 and served as a C.D.E. Engineer with the United Telephone Company of Bristol, Tennessee from 1987 - 1988. I joined Vanguard Cellular Systems, Inc. of Greensboro, North Carolina in 1988 as a Systems Engineer and from 1989 - 1990 I served as Vanguard's Network Engineer. Since 1990, I have served as Vanguard's Telecommunications Manager.

2. As a result of my current position and previous experience, I am familiar with the operations of Vanguard's various cellular systems and the potential impact of an interexchange carrier presubscription requirement such as that proposed by MCI in its current pending Petition For Rulemaking RM-8012 at the Federal Communications Commission.

3. If such a presubscription system were required, it would be technically complex and, at least initially pending any reimbursement of its costs, significantly expensive for Vanguard in the following respects:

a. First, in each MSA and RSA, Vanguard would be required to add interconnections with the array of IXCs serving the particular market area. This would require acquiring additional trunking facilities from each of Vanguard's cellular switches to Class 4 Tandem offices (where the IXC connections reside) serving the MSA or RSA. Vanguard currently estimates that for each six (6) IXCs it would require a minimum of two (2) additional trunks.

b. Second, Vanguard would need to add channel service units ("CSU") or channel banks in each MSA or RSA, along with computer cards to interface the additional trunks to the relevant cellular switch.

c. Third, the hardware and software of each of Vanguard's eight (8) cellular switches would have to be upgraded. Those Vanguard switches which are shared by several of the Company's cellular systems to enhance economies probably would have to be upgraded to a "super node".

4. In addition to the added technical complexity of installing, operating and maintaining these new features and facilities, the costs would be very significant. Additional trunking could cost Vanguard up to $1,300 per month per IXC connection. It would cost Vanguard at least $10,000 to software upgrade each of its cellular switches. Each switch upgrade to "super node", where necessary, would cost Vanguard $800,000. The computer cards to effect the trunking/cellular switch interface would cost $7,000 each. CSUs cost $3,000 each. Therefore, at this time, Vanguard's estimated equipment and related installation costs alone are estimated at a minimum of $30,000 per market, or $630,000 for all of Vanguard's markets, without taking into account cellular switch change outs to "super node".

5. But these costs do not include the additional personnel (the Company estimates one-two additional individuals per market) necessary to oversee the implementation (i.e., subscriber balloting) and ongoing administration of an IXC presubscription program for its cellular customers. These personnel assets could

cost the Company at least an additional $40,000 per market.

6. While a major part of these costs would be subject to reimbursement over time, Vanguard would essentially have to front these expenses pending such reimbursement. For that period, Vanguard would be deprived of access to significant financial resources.

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I declare under penalty of perjury that the foregoing statements are true and correct to the best of my knowledge, information and belief.

Karen Garber

Karen Garber

August 31, 1992

CERTIFICATE OF SERVICE

I, Paul C. Besozzi, certify that on this 1st day of September, 1992 I did send the foregoing "Initial Comments of Vanguard Cellular Systems, Inc." by hand delivery or first class U.S. mail, postage prepaid, on the following individuals:

1. Larry A. Blosser
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Paul C. Besozzi

* **By Hand Delivery**

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